

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v)	CR. NO. 1:06cr247-CSC
)	(WO)
CAROL LYNN STEINEKE)	

ORDER

On February 16, 2007, the defendant filed an unopposed motion to continue trial (doc. # 12). Upon consideration of the motion, the court concludes that the motion should be granted.

While the granting of a motion for continuance is left to the sound discretion of the court, the Speedy Trial Act places limits on that discretion. *See* 18 U.S.C. § 3161. Under the act, the trial of a defendant must commence within 70 days of the date of the indictment or the date of the defendant's first appearance before a judicial officer, whichever is later. 18 U.S.C. § 3161(c)(1). *See United States v. Vasser*, 916 F.2d 624 (11th Cir. 1990). Excluded from this 70 day period is any continuance which a judge grants "on the basis of . . . findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(8)(A). Before granting a continuance, the court must consider among other factors "[w]hether the failure to grant [the] continuance . . . would be likely to . . . result in a miscarriage of justice." 18 U.S.C. § 3161(h)(8)(B)(I). *See also United States v. Wentland*, 582 F.2d 1022 (5th Cir. 1978). The court also must consider "whether the failure to grant such a continuance . . . would deny counsel for the defendant or the attorney for the government the reasonable time

necessary for effective preparation, taking into account the exercise of due diligence.” 18 U.S.C. § 3161(h)(8)(B)(iv).

The defendant has requested pretrial diversion and her request remains pending. The United States supports pretrial diversion and does not oppose a continuance. Requiring a trial under these circumstances is not beneficial to the parties or the public. For these reasons, the court finds that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial, and it is

ORDERED as follows:

1. That the motion to continue trial (doc. # 12) be and is hereby GRANTED.
2. That this case be and is hereby CONTINUED to jury selection on and trial during the term beginning on **May 7, 2007**.
3. That this case be and is hereby set for a pretrial conference on **April 2, 2007**, at **1:00 p.m.**
4. All applicable deadlines contained in the prior arraignment order and pretrial order are adjusted accordingly; provided, however, that the deadline for the filing of pretrial, dispositive motions is not extended.

Done this 22nd day of February, 2007.

/s/Charles S. Coody
CHARLES S. COODY
CHIEF UNITED STATES MAGISTRATE JUDGE